

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

JANICE STEVENSON,

Plaintiff,

V.

NEIGHBORHOOD HOUSE  
CHARTER SCHOOL,

Defendant.

CIVIL ACTION NO. 05-CV-11584-DPW

## **DEFENDANT'S MOTION TO DISMISS AND FOR SANCTIONS**

Defendant Neighborhood House Charter School (“NHCS” or the “School”) submits this Motion to Dismiss and For Sanctions pursuant to Fed.R.Civ.P. 37(d) and 41(b), seeking relief from a continuing and incorrigible pattern of discovery abuses and other vexatious conduct by Plaintiff Janice Stevenson (“Plaintiff” or “Stevenson”). The Court and counsel for NHCS have gone to extraordinary lengths to give Stevenson every opportunity to comply with her discovery obligations and curb her pattern of calamitous conduct in this matter. In willful defiance of the Court’s repeated warnings, Stevenson has continued to obstruct and evade NHCS’s discovery efforts. Her conduct has necessitated numerous rounds of motion practice, resulting in an unjustifiable waste of the Court’s resources and imposing a truly oppressive and disproportionate burden on NHCS, an eleemosynary institution. Stevenson’s open contempt for this Court cannot be tolerated further, and the Court should dismiss her claims in this matter with prejudice and order her to pay the costs and attorneys’ fees NHCS has incurred in responding to her vexatious tactics.

## BACKGROUND

Since Stevenson filed this action in July 2005, she has consistently endeavored to derail any prospect of sane or balanced proceedings in this matter. At every opportunity, she has done

her utmost to frustrate and obstruct NHCS's efforts to take discovery, and it is now apparent that Stevenson's conduct has rendered any orderly resolution of this case on its merits impossible.

**A. Stevenson's Misconduct at the First Two Sessions of Her Deposition**

NHCS initially commenced Stevenson's deposition in this matter in September 2006. In the first two sessions of her deposition, Stevenson willfully refused to cooperate by declining to answer questions without any cognizable basis, asserting facially inapplicable constitutional objections, and refusing even to look at documents that were marked as exhibits and placed before her. NHCS's counsel went to great lengths to reason with Stevenson and attempt to secure her cooperation, by among other things, marking a copy of the applicable Rules of Civil Procedure and explaining in detail the reasons that her behavior was inappropriate.<sup>1</sup> Stevenson persisted in her refusals to cooperate, and NHCS was forced to file a motion seeking relief from the Court for Stevenson's misconduct. *See* Defendant's Motion for Terminating Sanctions, or in the Alternative, to Compel Deposition Testimony, filed September 22, 2006 (docket entry no. 41).

On November 6, 2006, Magistrate Judge Joyce London Alexander held a hearing on NHCS's Motion for Terminating Sanctions, in addition to several other motions. *See* electronic docket entry dated Nov. 6, 2006. At that hearing, Magistrate Judge Alexander made it unmistakably clear to Stevenson that her behavior at the prior sessions of her deposition was inappropriate and unacceptable, and she Ordered Stevenson to appear for continued deposition on December 20 and to respond to all questions posed to her in that proceeding. *See* Transcript of Nov. 6, 2006 Hearing, a copy of which is attached at Tab A, at 24:12-24, 26:12-16, 27:5-15. The Magistrate Judge then reinforced her clear instructions to Stevenson regarding her obligation

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<sup>1</sup> NHCS's counsel's efforts in this regard are recorded in the transcript of the first session of Stevenson's deposition, which is appended to the School's Motion for Terminating Sanctions (docket no. 41) at 107:13 – 111:24.

to participate in the deposition in good faith with a written Order. *See* Order dated November 7, 2006 (docket no. 48), p. 3 (“Plaintiff may assert any appropriate objection she wishes at the deposition . . . , but she is hereby ORDERED to answer every question posed to her in an honest, clear, concise and coherent manner.”)

**B. Stevenson’s Deliberate Violation of the Magistrate Judge’s Order**

Stevenson failed to appear for her deposition on December 20, and she offered no plausible justification or excuse for her willful disregard of the Court’s Order. In fact, at the time that Stevenson was to appear for deposition pursuant to the Court’s Order, she instead traveled to the Clerk’s office, a few hundred yards from the offices where her deposition was to take place, and filed two additional dilatory and frivolous motions in this matter.<sup>2</sup>

In response to Stevenson’s failure to appear for her deposition, NHCS sought leave to file a supplemental brief in support of its Motion for Order to Show Cause Why Plaintiff Should Not Be Held in Contempt, detailing Stevenson’s refusals to comply with the Magistrate Judge’s Order.<sup>3</sup> *See* Defendant’s Motion for Leave to File Supplemental Brief (docket no. 54).

The Court held a hearing in this matter on January 23, 2007, at which it addressed several pending motions, including Defendant’s Motion for Order to Show Cause. At the hearing, the Court observed that this matter “has been transformed into a mess because of various actions that [Stevenson had] taken.” Transcript of Jan. 23, 2007 Hearing, a copy of which is attached at Tab B, at 7:24 – 8:1. The Court gave Stevenson a clear and stern warning that her failure to appear for deposition was in violation of the Magistrate Judge’s Order, and that it was within the Court’s discretion to dismiss Stevenson’s claims as a sanction for her misconduct. *Id.*, 13:5 –

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<sup>2</sup> *See* Transcript of January 23, 2007 Hearing, Ex. B, at 13:9-21.

<sup>3</sup> NHCS initially filed its Motion for Order to Show Cause (docket no. 53) on December 11, 2006, in response to Stevenson’s failure to produce specified documents in advance of her deposition, as the Magistrate Judge had Ordered her to do.

14:11. Rather than dismissing this action or entering other sanctions against Stevenson, the Court gave her “one more chance” and Ordered her to appear for deposition on February 22, 2007. *Id.* 15:10-13.

**C. Stevenson’s Outrageous and Obstructionist Behavior at Her Continued Deposition**

Stevenson appeared at the offices of Defendant’s counsel on February 22, but she grossly and willfully failed to participate in her deposition. Instead, Stevenson engaged in a range of outrageous behavior that was designed to obstruct NHCS counsel’s ability to take testimony from her.

Stevenson appeared in heavy winter garb that included a hood that covered her ears and a scarf wrapped tightly around the lower half of her face, covering her mouth. *See* Affidavit of Barry J. Miller, Esq. in Support of Defendant’s Motion to Dismiss and For Sanctions, filed contemporaneously herewith, (“Miller Aff.”), ¶ 4; Transcript of February 22, 2007 Deposition of Janice Stevenson (“Depo. Trans.”), 791:6 – 792:13.<sup>4</sup> Despite the fact that the conference room in which the deposition was to occur was heated to 75 degrees Fahrenheit, Stevenson stubbornly refused to remove her outerwear and insisted on mumbling her testimony through her scarf. *See* Miller Aff., ¶¶ 5, 8; Depo. Trans., 797:5-23, 799:1-10, 814:8-16, 818:24 – 819:4, 899:22 – 900:2. Stevenson also refused to sit next to the court reporter and insisted on sitting near the opposite end of the conference room table from the court reporter and NHCS’s counsel. Miller Aff., ¶¶ 6, 8; Depo. Trans. 791:6-16, 809:6-8. NHCS’s counsel repeatedly explained to Stevenson that it was necessary for the court reporter to be able to hear her testimony clearly, and that the scarf over mouth, together with the fact that she was sitting at a distance from the court reporter,

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<sup>4</sup> A copy of the transcript of the February 23, 2007 session of Stevenson’s deposition is appended to the Miller Affidavit at Tab B.

served as a serious impediment to the proceedings. Miller Aff., ¶¶ 7, 11; Depo. Trans. 820:10-17, 899:5-12. Stevenson persisted in her refusals to cooperate, at one point stating, “Okay. Half [of what I say] will be on the reporter’s transcript.” Depo. Trans. 825:2-5.

Notwithstanding Stevenson’s obstinate behavior, NHCS’s counsel attempted to continue the deposition. Miller Aff., ¶ 9; Depo. Trans. 806:12-20. When it became clear that the communication between Stevenson and NHCS’s counsel was impaired by the covering over Stevenson’s mouth and her refusal to sit within a reasonable conversational distance, Stevenson abruptly left the room and came back with two pieces of paper. Miller Aff., ¶ 11; Depo. Trans. 807:11-22. She then constructed cue cards reading “YES” and “NO,” and proceeded to answer the questions put to her by waiving the cards. Miller Aff., ¶ 12; Depo. Trans. 807:19 – 808:5. Despite NHCS’s counsel’s explaining to Stevenson that she needed to give spoken testimony for the transcribed record, Stevenson continued to respond with her cue cards, in addition to or in lieu of spoken responses, throughout the proceedings. Miller Aff., ¶ 13; Depo. Trans. 814:2-6, 817:13-15, 819:10-19, 897:12-14, 901:5-7.

After Stevenson constructed her cue cards, her intransigence escalated even further. She turned her back to the court reporter, retrieved a copy of a daily newspaper from her tote bag, and began to read the newspaper, rather than listening to questions from Defendant’s counsel or looking at the exhibits placed in front of her. Miller Aff., ¶ 15; Depo. Trans. 828:2-9, 831:11-13. NHCS’s counsel requested that Stevenson put the newspaper away and participate in the deposition proceedings, but she refused. Miller Aff., ¶ 16; Depo. Trans. 830:15-20, 834:5-17, 843:12 – 844:15.

In addition to the antics described above, Stevenson obstructed NHCS’s efforts to take her deposition by combatively arguing with NHCS’s counsel, repeatedly interrupting NHCS’s

counsel, refusing to review documents marked as exhibits, refusing to acknowledge that she was under oath, and refusing to respond to many of the questions put to her. Miller Aff., ¶¶ 10, 14, 21; Depo. Trans. 792:6-24, 832:5 – 834:2, 837:19 – 843:10, 853:15 – 861:18, 903:7 – 910:21.

In response to Stevenson's conduct, NHCS's counsel repeatedly informed her that, in NHCS's view, her failure to participate in her deposition was inappropriate and in violation of both the Magistrate Judge's Order of November 8, 2006 and the Court's Order of January 23, 2007. Miller Aff., ¶¶ 17, 20; Depo. Trans. 811:11 – 812:9, 819:20 – 820:6, 873:17 – 874:7. In response to NHCS's counsel's warnings, Stevenson stated, "What are you whining about? I'm here. What do you want?" Depo. Trans., 884:14-15. At the same time, Stevenson claimed to have no memory of the Court Orders requiring her to appear for and participate in her deposition. Miller Aff., ¶ 18; Depo. Trans. 853:6-14, 856:12-14, 871:5-12, 883:21 – 886:9, 900:13-23. When NHCS's counsel marked copies of the Court's Orders and placed them in front of her, Stevenson then claimed that the Orders were not binding on her. Depo. Trans. 859:8 – 860:7, 865:3-7, 867:1-16, 875:2 – 876:23, 878:16 – 879:19.

#### **D. Stevenson's Refusal To Appear at the February 22 Hearing**

In response to Stevenson's obstructionist behavior at the February 22 deposition, NHCS's counsel left a message for the Court Clerk by telephone during the lunch break seeking guidance as to whether and how the Court would address Stevenson's behavior. Miller Aff., ¶ 19. The Clerk returned the call from NHCS's counsel at approximately 1:30 p.m., and she apprised Defendant's counsel that the Court would hold a hearing in this matter at 2:15 p.m. that day, February 22, 2007. Miller Aff., ¶ 21. The Clerk also asked to speak with Stevenson, so that she could apprise her of the hearing. *Id.* Stevenson declined to talk to the Clerk on the phone provided by Defendant's counsel, and asked that she be allowed to speak with the Clerk on her own phone. *Id.* At the Clerk's request, Defendant's counsel provided Stevenson with the

Clerk's telephone number and informed her that the Court would hold a hearing that afternoon at 2:15 p.m., or in roughly 45 minutes from the time of the call. Miller Aff., ¶ 22; Depo. Trans. 913:10-16. Despite the fact that Stevenson had been informed that her deposition (which was suspended for the hearing) was scheduled to last all day on February 22, 2007, she stated to Defendant's counsel that she was not available for the afternoon hearing, and she left Defendant's counsel's offices without further discussion. Miller Aff., ¶¶ 3, 22-23.

### **ARGUMENT**

Stevenson has gone to remarkable lengths to impede NHCS's discovery efforts and she has shown an open and flagrant disregard for the Orders of the Court. Moreover, her misconduct in this matter on February 22 was only one component in Stevenson's longstanding and consistent pattern of vexatious conduct in this case. She has received more than ample warnings regarding the consequences of her continued misconduct, and the Court should now dismiss Stevenson's claims with prejudice and impose harsh monetary sanctions against her.

#### **A. Stevenson's Conduct At Deposition Warrants the Dismissal of Her Claims and the Imposition of Sanctions**

There can be no question that Stevenson's antics at her deposition are sufficient grounds for the dismissal of her claims. It is within the Court's inherent powers to dismiss a Plaintiff's claims as a sanction for her discovery abuses. *See Torres-Vargas v. Pereira*, 431 F.3d 389, 392 (1st Cir. 2005) (collecting authorities); Fed.R.Civ.P. 37(b)(2)(C) (listing party's failure to provide or permit discovery among grounds for sanctions, including dismissal). Courts in the First Circuit have recognized that a party's refusal to participate in good faith in a deposition is a well established ground for dismissal of her claims. *See, e.g., Young v. Gordon*, 330 F.3d 76, 81 (1st Cir. 2003) (refusal to comply with Court Order to appear for and participate in deposition valid basis for dismissal); *Guex v. Allmerica Fin. Life Ins. & Annuity Co.*, 146 F.3d 40, 42-43

(1st Cir. 1998) (plaintiff's failure to appear deposition without justification or excuse warranted dismissal of complaint); *The Stop & Shop Cos., Inc. v. Interstate Cigar Co.*, 110 F.R.D. 105, 108 (D. Mass. 1986) (Court may dismiss plaintiff's claims for refusal to answer deposition questions, even in the absence of an order compelling responses).

In this case, Stevenson previously failed to appear for her deposition as Ordered on December 20, 2006, without justification or excuse. Rather than dismissing Stevenson's claims for her deliberate violation of the Magistrate Judge's Order, the Court showed lenience and provided Stevenson with "one more chance" to comply. Stevenson abused the Court's clemency in grandiose fashion by engaging in childish behavior at her deposition on February 22 that precluded NHCS from taking any useful testimony. The Court should, therefore, substantiate the final warning that it gave to Stevenson at the January 23 hearing in this matter and dismiss her claims with prejudice.

**B. Stevenson's Refusal to Appear at the February 22 Hearing Also Supports the Dismissal of Her Claims**

Stevenson's refusal to appear at the February 22, 2007 hearing that the Court called to address her misconduct at deposition constitutes further grounds for the dismissal of her claims. A party's deliberate failure to attend a hearing as directed is sufficient to justify the dismissal of the action. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 633 (1968) (dismissal warranted where "it could reasonably be inferred from [the] absence, as well as from the drawn-out history of the litigation . . . that [the plaintiff] had been deliberately proceeding in dilatory fashion."); *Morgan v. Mass. Gen. Hosp.*, 901 F.2d 186, 195 (1st Cir. 1990) (dismissal appropriate where the "case reflects a persistent pattern of disregarding or disobeying the requirements of the Federal Rules of Civil Procedure, the Local Rules of the . . . District Court and explicit court orders"); Fed.R.Civ.P. 41(b) (failure of plaintiff to comply with applicable rules or any order of the Court



is grounds for dismissal with prejudice). There is every indication that Stevenson's failure to attend the February 22 hearing was deliberate, and any claim that Stevenson was not available to attend the February 22 hearing is facially implausible. She had been Ordered to appear for her deposition on February 22, and she was told that the proceeding would last the entire day. *See* p. 6, above. That deposition was suspended for the purpose of allowing the parties to attend the hearing. *Id.* Stevenson had ample notice and was within walking distance of the Courthouse at the time she was informed of the hearing.<sup>5</sup> Stevenson's failure to appear at the hearing was, therefore, yet another instance of her flagrant disregard for the Orders and instructions of the Court.

Stevenson has been given a more than reasonable number of last and final chances to curb her abuses, and she has demonstrated that she will not respond to any measure short of the termination of her claims. It is time for the Court to put an end to Stevenson's abuses, and to do so, it must dismiss this action with prejudice.

**C. Stevenson's Misconduct in this Matter Warrants the Imposition of Harsh Monetary Sanctions**

Stevenson's conduct at the most recent session of her deposition and her refusal to appear at the February 22 hearing is part of an expansive pattern of misconduct that has prevented any progress in this case and has imposed a massive burden on NHCS in responding to Stevenson's various forms of misconduct.

Stevenson's behavior at the first two sessions of her deposition, her failure to appear for her deposition on December 20, 2006, and her antics at her deposition on February 22, 2007

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<sup>5</sup> In fact, Stevenson had only minutes before walked over to the Courthouse from Defendant's counsel's office to file documents in this matter with the Clerk. Depo. Trans. 909:10-13

have needlessly caused the School to expend many thousands of dollars in attorneys' fees and stenographers' fees for no productive purpose.

In addition to expenses related to its efforts to take Stevenson's deposition, the School has been forced to file numerous motions in attempting to secure Stevenson's compliance with her discovery obligations in this matter, including a motion to compel production of documents (docket no. 32), a motion to compel deposition testimony (docket no. 41), a motion for order to show cause for Stevenson's failure to produce documents as Ordered (docket no. 53), a brief regarding Stevenson's failure to attend her deposition as Ordered (docket no. 54), a motion regarding Stevenson's misrepresentations to the Court regarding the documents she had produced (docket no. 61), and the present motion.

The School has also been forced to expend many thousands of dollars in responding to a litany of baseless motions that Stevenson has filed, including her grossly premature motion for summary judgment (*see* docket no. 11), a "Motion to Compel Payment of Vacation Wages" (docket no. 35), a motion for Rule 11 sanctions based on NHCS's asserting defenses to her claims in this matter (docket nos. 37, 40), meritless objections to the Magistrate Judge's Order requiring her to produce documents and appear for deposition (docket no. 50), and a motion for Order to show cause – again for NHCS's asserting defenses to her claims in this matter (docket no. 56). The Court has summarily denied all of these motions as lacking any substantial basis in the law and has characterized them as "misplaced," "frivolous," and "dilatory." *See, e.g.*, Ex. A at 20:7-17; Nov. 7, 2006 Order (docket no. 48), p. 4. Moreover, this proceeding is but one component of a massive campaign of harassment that Stevenson has waged against NHCS, including claims she has filed against the School in *ten separate forums*. *See* NHCS's Brief

Regarding Ancillary Administrative Proceedings (docket no. 25).<sup>6</sup> The massive quantity of resources that Stevenson has diverted from NHCS's educational mission through her misconduct is entirely unconscionable.

There can be no serious question that Stevenson's behavior in this case, including her efforts to obstruct discovery, her overt and intentional violation of the Court's Orders, and her filing a multitude of frivolous pleadings are sufficient to vest the Court with discretion to enter sanctions against her in the amount of NHCS's attorneys' fees. *See, e.g., Dubois v. U.S. Dept. of Agric.*, 270 F.3d 77, 80 (1st Cir. 2001) (District Court may, under its inherent equitable powers, award attorneys' fees against a party who has "acted in bad faith, vexatiously, wantonly, or for oppressive reasons.") (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 33 (1991)); *Jones v. Winnepesaukee Realty*, 990 F.2d 1, 4-6 (1st Cir. 1993) (award of attorneys' fees appropriate sanction against party who behaved in a "general non-cooperative and often contentious manner" in course of litigation). Indeed, the Rules of Civil Procedure create a strong presumption in favor of imposing monetary sanctions on a party who violates the Court's discovery Orders, as Stevenson clearly has. *See* Fed.R.Civ.P. 37(b) ("the court shall require the party failing to obey the order . . . to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust"). Given her extended pattern of serious and deliberate abuses in the face of clear and repeated warnings from the Court, Stevenson's *pro se* status does not shield her from the imposition of such sanctions. *See Unanue-Casal v. Unanue-Casal*, 898 F.2d 839,

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<sup>6</sup> Since NHCS filed its brief regarding Stevenson's ancillary findings, the School has learned that Stevenson has filed claims or complaints against it in at least the following venues, in addition to this Court: the U.S. Bankruptcy Court for the District of Massachusetts, the U.S. Department of Labor's ("USDOL") Occupational Safety and Health Administration, the USDOL's Employee Benefits Security Administration, the USDOL's Wage and Hour Division, the U.S. Internal Revenue Service, the Massachusetts Division of Unemployment Assistance, the Massachusetts Department of Revenue, the Massachusetts Appellate Tax Board, and the Massachusetts Attorney General's Fair Labor and Business Practices Division.

843-44 (1st Cir. 1990) (imposition of sanctions against *pro se* party permissible and warranted for bad faith litigation conduct). At this juncture, it is plainly apparent that Stevenson has pursued this litigation against NHCS for the improper and malicious purpose of causing undue expense and distraction to the School. The Court should, therefore, require Stevenson to pay the costs, including attorneys' fees, that NHCS has incurred in this matter as a sanction for her misconduct.

**CONCLUSION**

WHEREFORE, Defendant Neighborhood House Charter School requests that this Court dismiss Plaintiff Janice Stevenson's claims in this matter with prejudice and enter sanctions against Plaintiff Janice Stevenson ordering her to pay the costs, including attorneys' fees, that Defendant has incurred in responding to her improper conduct.

Respectfully submitted,  
NEIGHBORHOOD HOUSE  
CHARTER SCHOOL,  
By its attorneys,

\_\_\_\_\_  
/s/ Barry J. Miller

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DATED: March 6, 2007

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULES 7.1 AND 37.1**

I hereby certify that I attempted in good faith to resolve or narrow the issues presented by this motion by conferring with *pro se* Plaintiff Janice Stevenson. During Plaintiff's deposition, on February 22, 2007, I engaged in on-the-record conversations with Plaintiff and informed her that Defendant believed her refusal to answer questions and otherwise to participate in the deposition was inappropriate and grounds for sanctions, including the dismissal of her claims in this matter. I also repeatedly stated to Plaintiff that Defendant intended to seek relief from the Court for her intransigence. Plaintiff continued to refuse to cooperate or to in the deposition in good faith.

\_\_\_\_\_  
/s/ Barry J. Miller  
Barry J. Miller

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed through the Court's ECF system and that a true copy of the above document was served on Plaintiff *pro se* Janice Stevenson by e-mail to [janicestevensonus@gmail.com](mailto:janicestevensonus@gmail.com) and by first class U.S. mail to P.O. Box 400372, Cambridge, MA 02140 on March 6, 2007.

\_\_\_\_\_  
/s/ Barry J. Miller  
Barry J. Miller

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JANICE STEVENSON	.CIVIL ACTION NO. 05-11584-DPW
Plaintiff	.
	.
V.	.BOSTON, MASSACHUSETTS
NEIGHBORHOOD HOUSE CHARTER SCHOOL	.NOVEMBER 6, 2006
Defendant	.
. . . . .	

TRANSCRIPT OF MOTIONS HEARING  
BEFORE THE HONORABLE JOYCE LONDON ALEXANDER  
UNITED STATES MAGISTRATE JUDGE

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Court Reporter:

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Proceedings

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P R O C E E D I N G S

(Court called into session)

THE CLERK: In the matter of Janice Stevenson v. Neighborhood House Charter School, Civil Action 05-11584. Will the parties please identify themselves for the record?

MS. STEVENSON: I'm Janice Stevenson the plaintiff.

MR. MILLER: Barry Miller of Seyfarth Shaw for defendant, Neighborhood House Charter School, Your Honor.

THE COURT: You may be seated.

I'll hear defendant's motion to compel production of documents and for sanctions.

MR. MILLER: Your Honor, to provide some factual background to give context to the various motions before the Court, Ms. Stevenson, through her company, Tuck NT, which she formed prior to her relationship with Neighborhood House Charter School, provided administrative services to the school, including accounts payable, human resources and other similar functions. When the school terminated its contract with Ms. Stevenson's company, she then proceeded to file a number of administrative complaints and lawsuits against the school and its constituents, including this lawsuit. In this lawsuit she claims that she was not an independent contractor as the fact that she operated her own company would suggest, but that she was in fact an employee of the school and that she was a non-exempt employee of the school, and she seeks overtime wages



1 under the Federal Fair Labor Standards Act. The  
2 school--

3 THE COURT: Who did the school hire?

4 MR. MILLER: The school had a contract with  
5 Ms. Stevenson's company, Tuck NT.

6 THE COURT: All right.

7 MR. MILLER: The school maintains in this lawsuit as  
8 it has in various other fora that Ms. Stevenson has filed  
9 charges in, that she was in fact an independent contractor and  
10 the Fair Labor Standards Act did not apply to the services she  
11 provided for the school. The school further contends that even  
12 if she had been an employee, the nature of the services that  
13 she provided were such that she would have been an exempt  
14 employee and not eligible for overtime pay under the statute.  
15 In the course of these proceedings and others, Ms. Stevenson  
16 has filed a number of motions that are dilatory in nature and  
17 serve no purpose other than to harrass and cause undue burden  
18 to a publicly funded charitable charter school.

19 The motion to compel production of documents relates  
20 to Ms. Stevenson's refusal to participate in discovery.  
21 Neighborhood House initially served document requests on  
22 Ms. Stevenson's counsel in November of 2005 when she was  
23 represented in this matter by Attorney John Davis. The parties  
24 agreed to hold discovery in abeyance while they conducted  
25 preliminary settlement negotiations. Eventually, those

1 negotiations broke down. Mr. Davis withdrew and  
2 Judge Woodlock asked us to re-serve our document request on  
3 Ms. Stevenson. We did that. In response, she grouped the  
4 requests that we had issued and essentially gave non-responses  
5 to each of our document requests. She produced a total of four  
6 documents, each of which is almost perfectly irrelevant. She  
7 failed to produce documents that are centrally relevant to her  
8 claims in this matter and that she has admitted to exist.  
9 Primary among these are her tax returns. It is the school's  
10 contention that she was an independent contractor. It is the  
11 school's understanding that she solicited and perhaps performed  
12 similar services for other entities aside from Neighborhood  
13 House Charter School. Ms. Stevenson conceded at deposition  
14 that her tax returns are available to her and she has not  
15 produced them. Similarly, Ms. Stevenson produced after her  
16 engagement or her company's engagement with the school, she  
17 prepared a document that lists the hours she claims to have  
18 worked in performing services for the school. At deposition  
19 she explained that she created that document after her  
20 engagement with the school, her company's engagement with the  
21 school and that it was based on primary documents, journals  
22 that she kept contemporaneous with the services she performed.  
23 She admitted at deposition that those documents are also  
24 available to her and she has not produced them. She has not  
25 produced any documents whatsoever relating to her company,

1 Tuck NT, which she established roughly six months before the  
2 school engaged that company. She has admitted at deposition  
3 that she maintained bank accounts on behalf of this entity and  
4 that they're, and she requested a federal employer  
5 identificaion number on behalf of this entity and she's  
6 produced no documents whatsoever that relate to those matters.  
7 Those are critically important to defendant's defenses in this  
8 matter because we believe those documents will reflect that the  
9 nature of Ms. Stevenson's employment, the nature of the  
10 services that she performed for this school and other entities  
11 was that of an independent contractor. Similarly, she has  
12 given no substantial basis for her refusal to produce documents  
13 or to participate in her deposition, which is subject to  
14 another motion that's before this Court.

15 She has articulated certain concerns about privacy  
16 and she has claimed that we have overstepped our bounds and  
17 engaged in all sorts of unethical and scandalous behavior.  
18 There's absolutely no basis for that whatsoever. She's accused  
19 us of race discrimination. She's accused us of lying to the  
20 court, and we can demonstrate that in fact ever representaiton  
21 we've made to the Court was entirely true and it's not pattern  
22 of behavior that has caused us to request sanctions not only on  
23 our motion to compel production of documents, but also in  
24 conjunction with the motion we filed that relates to Ms.  
25 Stevenson's behavior at deposition and the other motions that

1 she's filed in this matter including a completely frivolous  
2 motion for Rule 11 sanctions against the school essentially for  
3 mounting a defense in this case.

4 THE COURT: I'll hear you on your--

5 MS. STEVENSON: Well, Your Honor--

6 THE COURT: --opposition to the motion.

7 MS. STEVENSON: I'm sorry, say that again?

8 THE COURT: I'll hear you on your opposition to the  
9 motion.

10 THE CLERK: Will you please stand.

11 MS. STEVENSON: Stand up?

12 THE CLERK: Please.

13 MS. STEVENSON: Your Honor, my opposition to the  
14 defendant's motions for sanctions or in the alternative to  
15 compel discovery is - when I went to work for Neighborhood  
16 House Charter School back in 2004, I went to work there as a  
17 temporary employee for another agency. During that period of  
18 time, the head hired a new dean of administration, Jack Shoushy  
19 (ph), and in my communications and observations of Dean  
20 Shoushy, it was adamant that the school was not going to pay  
21 overtime. I have submitted several, I have submitted  
22 documentation from another employee where the school is forcing  
23 him to work overtime but not paying him. When I went there as  
24 a temporary employee for another agency, I immediately started  
25 to work for the deputy director, Mary Lee, and there was a lot

1 of overtime, and so they were subject - because I did not  
2 work for them, they had to pay overtime against my wages  
3 through Ace employment.

4 At the end of, around August, I went there in May,  
5 May 2004, August 2004, the dean, and they was paying this  
6 company \$18.95 an hour for my services. Dean--

7 THE COURT: What was the name of the company?

8 MR. STEVENSON: Ace Employment.

9 THE COURT: That's not the company you work for, the  
10 defendant contracted with?

11 MS. STEVENSON: Yes. When I first got there, yes.

12 THE COURT: And is that the, is that your company?

13 MS. STEVENON: No, ma'am, that was not my company.

14 THE COURT: Is that what the defendant is asserting  
15 is the plaintiff's company?

16 MR. MILLER: No, Your Honor.

17 THE COURT: Okay. I'll hear you on this. Continue.

18 MS. STEVENSON: Okay. In August 2004, I was there,  
19 and I'm trying to remember, and the dean and I spoke and he was  
20 saying, you know, I could work independently.

21 THE COURT: So right now, we're on the motion to  
22 compel--

23 MS. STEVENSON: Yes, ma'am.

24 THE COURT: --production--

25 MS. STEVENSON: Yes, ma'am.

1 THE COURT: --documents and sanctions.

2 MS. STEVENSON: Yes, ma'am. I'll give you some  
3 context.

4 THE COURT: Just let me finish my statement. The  
5 defendant has stated that you will not produce documents  
6 regarding a, your tax returns and documents regarding the  
7 company that it contracted with which provided your services,  
8 which was your company. Are you saying that was not who the  
9 defendant contracted with?

10 MS. STEVENSON: No, ma'am. We did not have a formal  
11 agreement, and I told him in discovery, I have no formal papers  
12 on this company. It was name that had--

13 THE COURT: Just a moment. Was that your company  
14 that the defendant is talking about?

15 MS. STEVENSON: The Tuck NT?

16 THE COURT: Yes. That's the company, is that  
17 correct?

18 MR. MILLER: Yes, Your Honor.

19 THE COURT: Now, the defendant has said that it wants  
20 you to produce documents regarding that company because you are  
21 are who actually was that company; is that correct?

22 MR. MILLER: She was the only employee of the  
23 company.

24 THE COURT: And that's who the defendant had an  
25 agreement with and that the defendant can show it had an

1 agreement for your consulting or you employment with that  
2 company. The plaintiff is saying, I mean, the defendant is  
3 saying it can show, it can prove that.

4 MS. STEVENSON: There was no written agreement.

5 THE COURT: There's no written agreement?

6 MS. STEVENSON: In accordance--

7 THE COURT: Just one moment.

8 MR. MILLER: It was an oral agreement, Your Honor,  
9 and our motion is directed at other documents that may be  
10 related to the formation of the company or any other--

11 THE COURT: So you're saying there was an oral  
12 agreement?

13 MR. MILLER: That's stipulated.

14 THE COURT: The plaintiff is saying there was no oral  
15 agreement, and what does plaintiff show that would say to the  
16 Court there was an agreement with someone else and not your  
17 company?

18 MS. STEVENSON: I don't understand your question.

19 THE COURT: You're saying, you're saying--

20 MS. STEVENSON: See--

21 THE COURT: No, if you don't understand then let me  
22 explain. You're saying that it was not your company.

23 MS. STEVENSON: No, I'm saying we didn't have a  
24 written agreemeent and that the agreement--

25 THE COURT: Right. But they, but you may not have

1 had a written agreement, you may have only had an oral  
2 agreement and the defendant is saying but that oral agreement  
3 was with you and, what's the acronym for the company?

4 MR. MILLER: Tuck NT, Your Honor. Tuck NT.

5 THE COURT: Tuck NT? That's who the agreement was  
6 with, Tuck NT and you were Tuck NT. That's who the defendant  
7 is saying that they agreed to employ.

8 MS. STEVENSON: Well, Your Honor--

9 THE COURT: And do you say yes or no?

10 MS. STEVENSON: I am saying that is not the way it  
11 transpired on campus between the dean and I.

12 THE COURT: But, okay, but this is--

13 MS. STEVENSON: So this is where he--

14 THE COURT: This - see you're getting ahead of  
15 yourself. Defendant is saying that Tuck NT is you.

16 MS. STEVENSON: Yeah, that's the name that was used  
17 on the pay documents.

18 THE COURT: Right. Okay. And it is saying you  
19 won't, and this is the only issue, you won't produce any  
20 documents relating to that company and you, tax returns,  
21 information regarding that company, you won't produce.

22 MS. STEVENSON: There are none, and I told him that.  
23 There are none. There was nothing filed and--

24 THE COURT: Do you have any tax returns?

25 MS. STEVENSON: Not in Tuck NT.



1 THE COURT: Do you have personal tax returns?

2 MS. STEVENSON: I have personal tax returns for me  
3 but nothing that points out Tuck NT.

4 THE COURT: Okay.

5 MS. STEVENSON: I have no letters, no papers of  
6 formation or incorporation and we've gone over this. I don't  
7 have that paperwork. If whatever he's looking for--

8 THE COURT: Okay. Then let's start with that.  
9 Plaintiff has said she has no documents that relate to the  
10 formation or otherwise actions or otherwise of this company,  
11 Tuck NT.

12 MR. MILLER: Your Honor--

13 THE COURT: It is now on the record. What do you  
14 respond.

15 MR. MILLER: She has also on the record at deposition  
16 admitted that her tax returns are available to her. The income  
17 that--

18 THE COURT: Tax returns she does have.

19 MR. MILLER: Her personal tax returns--

20 THE COURT: Her own, right.

21 MR. MILLER: --which she apparently reported the  
22 revenue she received from--

23 THE COURT: Right, I know. We've heard her.

24 MR. MILLER: Yes, Your Honor.

25 THE COURT: So, with respect to the company, she says

1 she has no documents.

2 MR. MILLER: She also said at deposition, Your Honor,  
3 that she maintained business banking accounts.

4 THE COURT: But she's now saying to the Court I have  
5 no documents. Do you understand what that means?

6 MR. MILLER: Yes, Your Honor.

7 THE COURT: And do you understand what that means?  
8 That means, that means that if you say as you have just said  
9 you have no documents, then as of this date, you cannot use any  
10 documents related to that company on your behalf in the future  
11 if they emerge because you have just said I don't have them.  
12 So you understand that?

13 MS. STEVENSON: Okay. In terms of incorporation  
14 papers?

15 THE COURT: Right.

16 MS. STEVENSON: And that's what you wanted,  
17 incorporation--

18 THE COURT: Anything, anything related to that,  
19 anything that he has requested, that you've seen requested as  
20 the defendnat did--

21 MS. STEVENSON: Yeah. Because I think he--

22 THE COURT: You've got to provide those documents.  
23 If you don't provide those documents, let this Court state for  
24 you now, you can't use them against them later. You will not.  
25 You have to provide every document they have asked for in the

1 request for production of documents period.

2 MS. STEVENSON: Okay. From my understanding from  
3 their request in regard to Tuck NT, when I told them I did not  
4 have those documents, that's my understanding from what he  
5 asked and from what I understand he's asking for, I don't have  
6 them. There was nothing elaborate about--

7 THE COURT: You can't, don't come back later and say  
8 you've got them because you can't use them.

9 MS. STEVENSON: Well, I don't have them.

10 THE COURT: Okay, fine.

11 MS. STEVENSON: Okay.

12 THE COURT: Did you hear her, did you hear her say  
13 it?

14 MR. MILLER: I did, Your Honor.

15 THE COURT: Okay.

16 MS. STEVENSON: Okay. Because all we have her is  
17 what he's--

18 THE COURT: Tax returns?

19 MS. STEVENSON: No, these aren't, these aren't tax  
20 returns.

21 THE COURT: No, tax returns. Your personal tax  
22 returns?

23 MS. STEVENSON: Yeah.

24 THE COURT: They can get them.

25 MS. STEVENSON: No, no, no, no. I said the only

1 thing he has in regard to, is, is, that company is invoices  
2 or time sheets. Is that what you talking about because he has  
3 those.

4 THE COURT: You can read what he wants. You know  
5 what he wants.

6 MS. STEVENSON: But I told him I don't have them.

7 THE COURT: You're a very intelligent person. You  
8 can see what he wants by what he asks for, and you give him  
9 every document that he has asked for, every document that he  
10 has asked for, period. There's no issue here. There's no  
11 issue in this case.

12 MS. STEVENSON: I just want to make sure you're not  
13 wiping out documents they already have.

14 THE COURT: Oh, documents they already have they  
15 don't need to have again. Any other documents--

16 MS. STEVENSON: I don't have anything what--

17 THE COURT: You don't have anything else, that's  
18 fine.

19 MS. STEVENSON: I don't have any tax returns that say  
20 Tuck NT on them.

21 THE COURT: If you have personal tax returns--

22 MS. STEVENSON: I have personal?

23 THE COURT: --you produce them, period.

24 Now, let's move on to the next issue. You have no  
25 documents with Tuck NT but you have personal tax returns,

1 produce them.

2 MS. STEVENSON: But they had no--

3 THE COURT: They're correct.

4 MS. STEVENSON: --they don't show Tuck NT.

5 THE COURT: It doesn't matter. Those personal tax  
6 returns will show your income in other matters that are  
7 discoverable, that the defendant is entitled to. So that is  
8 this Court's rule.

9 Now, let's go onto the next motion. The next motion  
10 is your motion for Rule 11 sanctions. You may be heard on  
11 that. You may be heard on that motion.

12 MS. STEVENSON: Okay, my Rule 11 sanctions. Oh, I  
13 don't have it in front of me here, but basically what my  
14 concern is that the defendant - Rule 11.

15 THE COURT: Argue it. That's why you're here for a  
16 hearing on all of these motions.

17 MS. STEVENSON: Can we skip that and go to the - I'm  
18 trying to recall what Rule 11 is. Would you read it to me?

19 THE COURT: Do you want me to tell you what your  
20 motion said? Okay.

21 MS. STEVENSON: No, no, no. What does Rule 11--

22 THE COURT: No, here is what your motion says. Your  
23 motion is against the defendant claiming that the defense  
24 counsel knowingly lied to the Court in defending their client,  
25 and basically you should know this because you filed it. It

1 says that they lied to the Court in defending their client  
2 because they knew their client willfully violated the law.

3 MS. STEVENSON: Oh, yes. Yes, and I filed some  
4 attachments there with it--

5 THE COURT: Uh-huh.

6 MS. STEVENSON: --because, the attachment will show  
7 that the defendant, my ex-employer had, willingly knew or did  
8 not care and stated openly that they did not care about any  
9 federal laws or state regulations in regard to employees or  
10 compliance, and--

11 THE COURT: Okay. Go on.

12 MS. STEVENSON: --and in that also there are  
13 documents that shows that, and I have some of them here from  
14 the defendant's own files and they're the same files I  
15 received, is that when I was paid, even though they paid me  
16 under the name of Tuck NT, my wages were charged just as other  
17 employees' wages were, and my vacation was accrued just like  
18 other employees' vacation was accrued, and sick time was  
19 allotted and personal days were allotted, and my, my contention  
20 is, you know, they may say independent contractor, but they  
21 treated me and I was an employee. There are two documents I  
22 have here that is a final letter that I got from the dean and  
23 that was the first time I ever knew of any issues in terms of  
24 performance over the last day of my employment, but the day  
25 after that he sent out a letter to the staff. He never

1 mentioned that Janice was an independent contractor and that  
2 her company is no longer with the school. So, you know, the  
3 attorneys say one thing, but they also know from their client's  
4 actions that it could not be true.

5 THE COURT: Thank you. I'll hear from the - you can  
6 be seated. Let me hear from the defendant.

7 MR. MILLER: Your Honor, as reflected in our papers,  
8 we believe that the Rule 11 motion Ms. Stevenson has filed is  
9 utterly without merit and she does, in fact, essentially seek  
10 sanctions against us for defending our client. It is our  
11 contention that she was an independent contractor of the  
12 school. We believe that's supported by the documentary record.  
13 It's also our contention that had she been an employee of the  
14 school, she would have been exempt under the white color  
15 exemptions to the statute. There's nothing asserted in bad  
16 faith. And in fact, it's Ms. Stevenson's motion that's  
17 asserted in the utmost bad faith. The documents that she  
18 referred to that she attached to her motion, she  
19 surreptitiously altered. In submitting to this Court, she  
20 redacted a line from the email that she attached as Exhibit 1,  
21 and the full copy is attached as an exhibit to our opposition  
22 to her motion, in attempts to deceive this Court about the  
23 nature of the conversations that she just referred to, and we  
24 believe that this motion was filed essentially in retaliation  
25 for our efforts to secure discovery from Ms. Stevenson and that

1 it is a plain waste of this Court's time and it's abusive to  
2 the school and it's caused us to expend additional completely  
3 unnecessary resources and deprived the school of funds that  
4 should be devoted to its charitable mission.

5 MS. STEVENSON: Your Honor, may I respond?

6 THE COURT: You may.

7 MS. STEVENSON: Your Honor, there is no one person  
8 who's on the payroll in error and that's what he's saying, and  
9 that email I say was my employer's attitude. You know, we,  
10 this employer routinely classified employees where they would  
11 not receive overtime, just like they did me, but every  
12 mechanism they use in order to scurt the law as the dean said  
13 or to make, or to make it easier for the school to operate with  
14 less money, that's what they did. That email was not redacted.  
15 That is the codified policy of that school. The penalties  
16 aren't that great. The penalties aren't that bad because they  
17 had lawyers. They had Sullivan Worcester who sits on their  
18 board or make them hire a number of lawyers who can defend them  
19 because they know with these lawyers there's not going to be a  
20 lot of penalties that they're going to have to pay or be  
21 assessed against. And, you know, this is, that's common  
22 knowledge to me. So when I have an attorney who can look at  
23 the record, and they're not unexperienced attorneys, but when  
24 you have attorneys who can look at the paperwork under a  
25 federal law such as the FLSA, and then say they did no wrong, I



1 know better than that. I know I personally, I know I  
2 personally sat in the dean's office and we did not, the people  
3 would bring the time sheets up that had overtime on it. He  
4 would send it back to them and say fill out a new one.

5 THE COURT: Ms. Stevenson?

6 MS. STEVENSON: Yes, ma'am.

7 THE COURT: I understand that you're pro se, but  
8 you're motion is totally, totally misplaced. It is not only  
9 misplaced, as counsel says, you're bringing a Rule 11 motion,  
10 and from what the Court gleans from reading what you said, you  
11 clearly must not understand Rule 11 because your motion is not  
12 only misplaced, it is procedurally defective. You didn't give  
13 counsel 21 days notice, which you were supposed to do under  
14 Rule 11, but more than that, you bring this motion because  
15 counsel is representing one thing and you're representing  
16 another. You can't do that. This motion, I mean, you brought  
17 this action against them.

18 MS. STEVENSON: Yes.

19 THE COURT: Rule 11 says, talks about the  
20 frivolousness of an action. You brought the action against -  
21 their defense isn't, if you wanted to say their defense is not  
22 frivolous, but you didn't give them, first and foremost, it was  
23 procedurally defected. Secondly - because you didn't give them  
24 21 days. Do you understand that? You didn't give them 21  
25 days.

1 MS. STEVENSON: But, Your Honor--

2 THE COURT: No, you didn't give them 21 days. You  
3 didn't.

4 MS. STEVENSON: But, Your Honor, when they--

5 THE COURT: If you wanted to bring a Rule 11, you had  
6 to do that and you didn't do it.

7 MS. STEVENSON: But, Your--

8 THE COURT: But number two, number two, it's totally  
9 misplaced.

10 MS. STEVENSON; But, Your Honor, I think Rule 11 says  
11 if there's, like they're making a false statement.

12 THE COURT: Wrong, denied.

13 Motion for terminating sanctions or in the  
14 alternative to compel deposition testimony. Let me hear from  
15 defendant.

16 MR. MILLER: Your Honor, that motion, as I mentioned  
17 earlier, relates to Ms. Stevenson's utter and stubborn refusal  
18 to participate in her depsoition which we believe is her  
19 culmination of her refusal to participate in this case and  
20 warrants the dismissal of this action along with her other  
21 frivolous filings. In addition to flatly refusing to answer  
22 simply background questions, icnluding questinos about her  
23 residential address, she, for example, told me she didn't know  
24 whether she had a home. She didn't know where she had slept  
25 the night before. She didn't know how she had gotten to my

1 office. She refused to tell me where she went to high  
2 school because she said she didn't want me investigating her  
3 background. That's the beginning of it, and I thinkt he first  
4 25--

5 THE COURT: Well, where she went to high school, what  
6 does that have to do with it?

7 MR. MILLER: Well, her education is relevant to her--

8 THE COURT: I mean, that's one question. If you're  
9 going to talk about some depsoition questions, let's talk about  
10 some serious deposition quesitons.

11 MR. MILLER: You're right, Your Honor. That's just  
12 one example. The ones that are the most serious for purposes  
13 of this case relate to the services that she performed for the  
14 school and where and how she performed them. She refused to  
15 tell me whether or not she owned a computer during the period  
16 of time her company was engaged by Neighborhood House Charter  
17 School. She refused to tell me whether or not she had internet  
18 access in her residence at that time. She refuses to tell me  
19 whether she had performed work for the school from her home,  
20 all of which is relevant to her indpendent contractor status  
21 and to the hours she claims to have worked for the school.

22 In addition, she completley refused to look at  
23 documents that I placed before her as exhiibts to her  
24 depsoition. She refused even to set eyes on them and cut off  
25 entire lines of questionning that related to, among other

1 things, her attendance at law school, which is centrally  
2 relevant to this case because she was providing legal  
3 compliance advice to the school among other things, and she  
4 simply refused to participate. She asserted completely  
5 inapplicable constitutional privileges, which I explained the  
6 school's position that those had no bearing. She claimed that  
7 the information that we were seeking was irrelevant. I went so  
8 far because of her pro se status as to mark a copy of Rule 30  
9 and talk her through the appropriate scope of an objection and  
10 the fact that testimony is taken at deposition subject to the  
11 objections and she could not refuse to testify based on  
12 relevance. And she persisted and she cut off entire areas of  
13 discovery that are centrally relevant to this case, again,  
14 causing the school to expend thousands and thousands of dollars  
15 in resources and utterly blocking us from mounting an effective  
16 defense in this matter. It's not even such that we can ask the  
17 Court to give us the inference that might be had based on her  
18 assertion of inapplicable privileges because we can't even get  
19 at the underlying basic information about for example her  
20 educational history, the tools she used to do the services  
21 that she performed for the school and such. The cases that are  
22 cited in our motion establish that it is well within #3:43:05  
23 of the Court to dismiss the plaintiff's claim for misconduct  
24 that is much less serious, and to dismiss the claim of a pro se  
25 plaintiff in similar circumstances. And we would certainly ask

1 that if the Court is disinclined, notwithstanding the  
2 Stevenson's long pattern of misconduct in this case, the Court  
3 is disinclined to dismiss the claim that she be ordered to pay  
4 substantial monetary sanctions to the school because as I've  
5 mentioned a couple of times, she's caused unbelievable  
6 distraction and expense to a public resource, and the only way  
7 that she will be deterred from continuing this pattern, which  
8 has gone on not only in this court but in the bankruptcy court  
9 and in seven administrative agencies, is if she is forced to be  
10 accountable for her actions and the expense that she's causing  
11 the school.

12 THE COURT: Questions on the deposition,  
13 Ms. Stevenson, you know you are to answer questions on a  
14 deposition. You may make an objection but you answer the  
15 question, you make an objection and then you bring those  
16 objections to the Court at the appropriate time, but not, you  
17 can't refuse to answer question at a deposition.

18 MS. STEVENSON: Well, Your Honor, the case in - well,  
19 this is an overtime payment case, and my, when I went to the  
20 deposition, I thought they wanted to get to the heart of the  
21 deposition, and as I told him, when I went to work for my  
22 ex-employer, you know, there was no background check. There  
23 was no, or address verification check, but they didn't care  
24 where, they didn't ask well, where do you live? Do you have  
25 the necessary tools to do overtime? And that is what I told

1 him. I says, if I went up to Lasser University and used  
2 their computer room to finish my work, or I went over to the  
3 women's center in Cambridge, or I used another public access  
4 computer, Neighborhouse didn't care. They didn't question it.  
5 I did it when it was, if I had some work to do and I took it  
6 home--

7 THE COURT: But those questions, those kinds of  
8 questions merit and warrant an answer. Well, I went to such  
9 and such and I used their, this is where I got--

10 MS. STEVENSON: I told him that, but when he, when he  
11 wanted to know - I told him this, wherever, if I worked off  
12 site or I worked over, if I worked off site or after hours, I  
13 was saying that when I came back Monday the work was done and  
14 no one--

15 THE COURT: But if he said, well, what did you do,  
16 you can answer that question.

17 MS. STEVENSON: I did. I told him if I did payroll  
18 because I was--

19 THE COURT: give me an example of what she didn't  
20 answer?

21 MR. MILLER: Your Honor, in that vain, she refused to  
22 tell me whether she had access for example to payroll  
23 information from her residence. Essentially questions that are  
24 targeted at the resources she aintained at her home to provide  
25 sservices like the services shed provide ffor the school, and

1 that is directly relevant--

2 THE COURT: You're supposed to answer that question.

3 MS. STEVENSON: No, ma'am. It's broad based--

4 THE COURT: Did you just tell me no?

5 MS. STEVENSON: Yes, ma'am. Yes, ma'am. I told him,  
6 he says did you access from home? It's a web based program.

7 You can access it from anywhere in the world. I can go up to,  
8 if I had access right now, we could access--

9 THE COURT: Did you tell him what the web based  
10 system was?

11 MS. STEVENSON: I assume he knew?

12 THE COURT: No, don't assume anything. Don't assume  
13 anything. When, from now on, you go back to that deposition  
14 and when the defendnat asks you the question, you answer it.  
15 You don't assume anything. You answer, you answer the  
16 question.

17 MS. STEVENSON: Well, let me ask you this, Your  
18 Honor--

19 THE COURT: No, we don't need to, we don't need to be  
20 asking the court question. You need to - let me tell you,  
21 Ms. Stevenson, in reading this and in reading the papers in  
22 this case, the district judge didn't dismiss this case at this  
23 point, and there will be a point when you can file, I  
24 understand you tried to mediate it and didn't, that's too bad,  
25 because this, from what this Court has seen, you have used



1 dilatory tactics, you have refused to give information, you  
2 have clearly submitted frivolous motions, and your behavior,  
3 while the Court always should give a pro se plaintiff some  
4 leeway and some room, you've had a house. You had a house.  
5 You have tried in every instance that the defendant has asked  
6 for information, you haven't given it to them because you, as  
7 you said, I assume they knew. I don't like this question. I  
8 don't think they ought to have this. Yes, they should. Once you  
9 have decided this case is going forward, as you have, then you  
10 object, you can sit at the deposition, you can say, I don't like  
11 this question, high school, I don't like this question, I  
12 object, but I'll answer it. I object. You can object as much  
13 as you please, but you must answer the question. That's the  
14 rule. You must answer the question, and if you do that, this  
15 case will move faster. If you provide the information that you  
16 haven't provided, it will move faster, because you must  
17 understand that if you refuse to give information that the  
18 plaintiff (sic) asks for, then you can't later on come back and  
19 say, well I have this document, which is the document they  
20 requested. You can't use it because you didn't give it to them  
21 when they asked for it.

22           So I will issue an order and I will write everything  
23 out so you'll understand, and you need to within 14 days of  
24 today, so that we won't have any question about when you need  
25 to give information, testimony or documents, you have 14 days



1 from today to provide any documents you haven't produced,  
2 you have 14 days from today to answer any interrogatory  
3 questions, and the Court is going to take the issue of  
4 sanctions under advisement. I'll issue an opinion on sanctions  
5 in this case, but that's the, that's where the Court, where the  
6 Court is on this. Your motion, for example, to compel payment  
7 of vacation wages is ultimately your dispositive motion. It's  
8 like a motion for summary judgment. It isn't a discovery  
9 motion.

10 MS. STEVENSON: But no it's not a discovery motion at  
11 all.

12 THE COURT: No, but you presented it. It's not so -  
13 the Court won't even, won't even, we won't even deal with that  
14 because it's not a discovery motion. It is a--

15 MS. STEVENSON: It wasn't intended to be a discovery  
16 motion.

17 THE COURT: --dispositive motion, but in terms of--

18 MS. STEVENSON: What do you mean dispositive?

19 THE COURT: --in terms of - the Court is not dealing  
20 with it because that's treated as a motion for summary  
21 judgment.

22 MS. STEVENSON: oh.

23 THE COURT: That's what dispositive means. But in  
24 terms of the other motions in this case, production of  
25 documents, which the Court allows, the motion for Rule 11

1 sanctions, which the Court denies, and deposition testimony,  
2 which you will answer, so the Court allows. Do you have a date  
3 for your deposition scheduled?

4 MR. MILLER: I don't, Your Honor. What I would  
5 propose is if she's going to have 14 days to produce documents  
6 that we be given a reasonable period of time thereafter to  
7 prepare.

8 THE COURT: You need to do that today. You need to  
9 do that while we're in here. You need to figure out a day--

10 MR. MILLER: You want to schedule the deposition?

11 THE COURT: --when you can do this, continue this  
12 deposition.

13 MS. STEVENSON: If he can put these in writing and I  
14 can just fill in the blanks and send them back to him.

15 THE COURT: No, he's taking a deposition. He has  
16 every right to do that. No.

17 MS. STEVENSON: Oh, oh, the questions I didn't  
18 answer?

19 THE COURT: Right.

20 MS. STEVENSON: Well, let me ask you this, he also  
21 wants me to produce documents from the other attorney and, but  
22 it's the same defendant. It's the defendant's papers. We have  
23 been in several administrative proceedings together and you had  
24 one set of attorneys filing papers and from those proceedings I  
25 go and I'd get to file--

1 THE COURT: Well, you get any documents you might  
2 have given someone else?

3 MS. STEVENSON: No. They're all from this Sullivan  
4 and Worcester.

5 THE COURT: Did you give them any documents?

6 MS. STEVENSON: I didn't give them anything. It's  
7 information, # date and I asked for information and they got it  
8 from them and I use it in my proceedings but we have, this is  
9 their paperwork. He says they don't talk to each other, but he  
10 wants me to produce.

11 THE COURT: No, they don't.

12 MR. MILLER: Your Honor--

13 MS. STEVENSON: And I don't think that's right.

14 MR. MILLER: --I think the point of confusion is  
15 this, Ms. Stevenson has commenced a number of administrative  
16 proceedings against the school, roughly seven, in addition to a  
17 lawsuit and she's attempted to implead us in her bankruptcy. I  
18 asked her at depsoition to produce documents that she had filed  
19 with various courts and adminsitrativie agencies--

20 THE COURT: Right.

21 MR. MILLER: --and she, because Sullivan and  
22 Worcester was party to some of those, didn't want to produce  
23 them again, but in fact, many of the documents that she's  
24 submitted, she submitted ex parte, and we don't even know what  
25 she submitted, so we just asked--

1 THE COURT: If she, have I made this clear, this  
2 case will stand or fall as Ms. Stevenson needs to know today on  
3 her keeping information from you that she has in her  
4 possession, custody or control. If, for example, she provided  
5 documents and then doesn't give them or says I didn't and did  
6 or says later here I found them, no, not admissible against  
7 you.

8 MR. MILLER: Our concern, Your Honor, is that the  
9 burden of proof is ours on the administrative exemption.

10 THE COURT: Well, counsel, I'm sure you know better  
11 than anyone needs to tell you how to defend a case.

12 MR. MILLER: Certainly, Your Honor.

13 THE COURT: Okay.

14 MR. MILLER: But much of the information--

15 THE COURT: And I understand that this case has been  
16 very difficult, but Ms. Stevenson can't win a case either if  
17 she can't, she has the burden of proving this case, so let's  
18 not get, let's not let this thing have everybody upsidedown. I  
19 will write an order. I will take the issue of sanctions,  
20 because this Court considers sanctions in this case to be  
21 really serious, to be really serious. There's gamesmanship  
22 going on here. Not legal gamesmanship. There's games going on  
23 in this case. I can see it and the Court will talk about it.

24 MS. STEVENSON: Your Honor, may I also say something  
25 else?

1 THE COURT: About what?

2 MS. STEVENSON: Discovery.

3 THE COURT: No, you are to produce whatever it is  
4 that the defendant asked for, period, period.

5 MS. STEVENSON: Ma'am, but if we were--

6 THE COURT: Period.

7 MS. STEVENSON: --parties in the same administrative  
8 proceedings, why is it on me to give him the same, the  
9 documents we were in there together.

10 THE COURT: That's what happens when you have, when  
11 you have a case.

12 MS. STEVENSON: But we were there together.

13 THE COURT: That's what happens.

14 MS. STEVENSON: It's their documents.

15 THE COURT: That's what happens. They're not asking  
16 for their documents. They're asking for documents that you had  
17 produced, period. They're not asking for their own documents.  
18 They are asking for documents you produced. As the Court has  
19 just indicated, the Court will take the matter under, the  
20 matter for sanctions under advisement. The Court has issued  
21 with respect to the defendant's motion to amend, the Court will  
22 allow the motion to amend this case, given the mediation  
23 sessions and given all of the rulings, and so the Court will  
24 amend the scheduling order. Defendant should submit an amended  
25 order.

1           What the Court, however, does want to do before we  
2       leave here is to have a date for the depositions.

3           MR. MILLER: And Your Honor said that Ms. Stevenson  
4       is to produce documents with 14 days?

5           THE COURT: 14 days.

6           MR. MILLER: Today being the 6<sup>th</sup>--

7           MS. STEVENSON: And that's just the tax documents,  
8       right?

9           THE COURT: Please be seated everyone. All the  
10       information that the defendant has requested that you haven't  
11       produced.

12           MS. STEVENSON: Well, Your Honor, this is what I'm  
13       trying to tell you, when I went back to get some documents they  
14       wanted--

15           THE COURT: Please be seated.

16           MS. STEVENSON: --the #3:56:11 gave me some  
17       documents they say aren't admissible. I can't present these  
18       to--

19           THE COURT: No, you can present whatever the  
20       defendant has asked for, period, period. Now, when are we  
21       going to do this deposition?

22           MR. MILLER: I would propose December 8<sup>th</sup>, Your Honor.

23           THE COURT: December 8<sup>th</sup>, Ms. Stevenson?

24           MS. STEVENSON: I don't know. I don't have a  
25       calendar.

1 THE COURT: Well, let me say then right now,  
2 December 8<sup>th</sup>. That is when your deposition will be taken--

3 MS. STEVENSON: No.

4 THE COURT: --which is Friday, December 8<sup>th</sup>.

5 MS. STEVENSON: No, we have bankruptcy that day,  
6 don't we? No it's a Thursday. Not it's the 14<sup>th</sup>, I believe.

7 THE COURT: Okay. So it's December 8<sup>th</sup>. Okay.

8 THE CLERK: Court is adjourned.

9 (Court adjourned)

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STEVENSON V. NEIGHBORHOOD HOUSE CHARTER SCHOOL>

Page 1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

\* \* \* \* \*

JANICE STEVENSON

Plaintiff

VERSUS

CA-05-11584-DPW

NEIGHBORHOOD HOUSE CHARTER  
SCHOOL

Defendant

\* \* \* \* \*

BEFORE THE HONORABLE DOUGLAS P. WOODLOCK

UNITED STATES DISTRICT COURT JUDGE

STATUS CONFERENCE

JANUARY 23, 2007

APPEARANCES:

JANICE STEVENSON, Post Office Box 400372, Cambridge,  
Massachusetts 02140, in proper person

BARRY J. MILLER, ESQ., Seyfarth, Shaw, LLP, Two Seaport  
Lane, Suite 300, Boston, Massachusetts 02210, on  
behalf of the Defendant

Courtroom No. 1 - 3rd Floor  
1 Courthouse Way  
Boston, Massachusetts 02210  
10:15 A.M. - 10:45 A.M.

Pamela R. Owens - Official Court Reporter  
John Joseph Moakley District Courthouse  
1 Courthouse Way - Suite 3200  
Boston, Massachusetts 02210

JANUARY 23, 2007>

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1 THE COURT: Well, I have a series of motions here.  
 2 But I want to step back a bit first and understand from both  
 3 parties' perspectives what's going to be necessary to get this  
 4 to judgment here. Mr. Davis, is it?

5 MR. MILLER: Mr. Davis has withdrawn, Your Honor.  
 6 He was Ms. Stevenson's former counsel.

7 THE COURT: I'm sorry.

8 MR. MILLER: I'm Barry Miller here for Neighborhood  
 9 House Charter School.

10 It is our position, Your Honor, that this case has  
 11 become an intractable mess because of Ms. Stevenson's pattern  
 12 of misconduct in this matter and in several related matters.  
 13 And we believe that Magistrate Judge Alexander's order of  
 14 November 7th served as last and final warning to Ms. Stevenson  
 15 that her conduct up to that point had been inexcusable and  
 16 would not be tolerated further. And starting days after  
 17 Magistrate Judge Alexander entered that order, Ms. Stevenson  
 18 not only continued her pattern of behavior, but actually  
 19 escalated her antics. She continued to file frivolous motions  
 20 against the school in this forum and in the Bankruptcy Court  
 21 because she knew she had worn out her welcome here. She  
 22 disregarded Magistrate Judge Alexander's clear instruction that  
 23 she produce specifically designated documents and she willfully  
 24 failed to appear for her deposition.

25 THE COURT: I understand that larger position. But

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1 assume that this is going to be resolved on the merits. What  
 2 needs to be done?

3 MR. MILLER: Your Honor, in order for us to respond  
 4 to the substance of the claims that Ms. Stevenson has asserted,  
 5 we have to be able to take discovery. We have to get a  
 6 meaningful document production from her. She's in control of  
 7 most of the documents relating to the case. Because one of the  
 8 central issues here is whether her company through which she  
 9 provided services to Neighborhood House Charter School was an  
 10 independent contractor or whether she was, in fact, an employee  
 11 directly of the school.

12 THE COURT: But is it simply discovery from her and  
 13 the associated document requests -- that is, document requests  
 14 from her? Is there anything else? Is it all focused on  
 15 Ms. Stevenson?

16 MR. MILLER: It's almost entirely focused on  
 17 Ms. Stevenson, including deposition testimony which she has  
 18 refused to give up to this point.

19 THE COURT: All right. Ms. Stevenson?

20 MS. STEVENSON: Before I address that, I've been  
 21 trying to obtain the transcript from the hearing the Magistrate  
 22 had. And on the docket, it referred to a phone number and  
 23 person. And I've been trying to contact that person to get a  
 24 copy of the transcript. And I believe they're within this  
 25 court. Can you tell me how I can get a transcript of that

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1 hearing? I sent the E-mail to Ms. Rowland. So, I wanted to  
 2 bring that up. But in regards to --

3 THE COURT: Magistrate Judge Alexander was pretty  
 4 clear on what she ordered.

5 MS. STEVENSON: Well, no. I want the transcript of  
 6 the --

7 THE COURT: Well, that's fine. You can go get the  
 8 transcript. And Ms. Rynne will help you, although I think it's  
 9 pretty clear how one goes about ordering a transcript. But  
 10 that's immaterial at this point.

11 MS. STEVENSON: Yeah. But --

12 THE COURT: The question is whether or not you're  
 13 going to comply with Judge Alexander's orders.

14 MS. STEVENSON: Your Honor, I have submitted  
 15 documents and I have tried to bring to this Court's attention  
 16 and the Bankruptcy Court's attention that the documents they  
 17 request I don't have. And the ones I have, I have given to  
 18 them.

19 THE COURT: So let me be clear about this. Your  
 20 position is that there are no other documents?

21 MS. STEVENSON: The ones she ordered, I have  
 22 submitted to this Court and to them.

23 THE COURT: All right. So that's her position.  
 24 What do you say? Is there anything else?

25 MR. MILLER: Your Honor, she made that same

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1 representation to Magistrate Judge Alexander. And she has  
 2 since attached documents to her filings in this matter and in  
 3 other matters that are directly responsive to our request that  
 4 she had not prior produced. She attached documents to her  
 5 motion for summary judgment that she filed in this Court on the  
 6 day that she was supposed to be sitting for her deposition.  
 7 And attached to that pleading were documents that were  
 8 responsive --

9 THE COURT: Okay. Well, let's just pause for a  
 10 moment. Are there any other documents -- any other documents?  
 11 Because if there is another document and it's produced late or  
 12 I'm shown that there is another document, I'm going to hold you  
 13 in contempt. So, think long and hard. Are there any other  
 14 documents responsive to Judge Alexander's order that you have  
 15 not yet produced?

16 MS. STEVENSON: I think -- I feel like I have  
 17 produced everything she's --

18 THE COURT: I'm taking that as your representation,  
 19 there are no other documents.

20 MS. STEVENSON: Yeah, because she only wanted three  
 21 documents -- tax forms, the calendar, and I forgot what the  
 22 other one is. But I produced three.

23 THE COURT: I don't really care what --

24 MS. STEVENSON: But the point is this.

25 THE COURT: -- you've produced in the past. Let me

2 (Pages 2 to 5)

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1 be clear about this, Ms. Stevenson. Now the time has come. If  
 2 you tell me that you have complied fully with Magistrate Judge  
 3 Alexander's orders, that all the documents have been produced,  
 4 then I'll accept that representation. If I find that that  
 5 representation is wrong and the defendants can show to me  
 6 either that there are documents that you didn't produce or you  
 7 continue to produce in some other forum or even in this forum  
 8 documents that were responsive, I'm going to hold you in  
 9 contempt.

10 MS. STEVENSON: Okay.

11 THE COURT: Do you understand?

12 MS. STEVENSON: I understand.

13 THE COURT: Okay. So --

14 MS. STEVENSON: But I --

15 THE COURT: Just a moment. Now, no extra  
 16 discussion about it.

17 MS. STEVENSON: It's not a discussion. I want to  
 18 know why on the documents I produced that has determined  
 19 that -- I really feel there is no other issue involved if --

20 THE COURT: We're going to get to that, but we're  
 21 going step by step. And the first step is the documents. You  
 22 tell me and you've represented to me on pains that I will hold  
 23 you in contempt and I should add enforce as sanction the  
 24 dismissal of the case if new documents appear.

25 MS. STEVENSON: Well, Your Honor, if you're going

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1 various actions that you have taken. Now, I intend -- as  
 2 Magistrate Judge Alexander did -- to clarify this so that we  
 3 can get to the merits so that the respective positions of the  
 4 parties may be fairly evaluated. But I'm not going to let  
 5 somebody interfere with that process. And I want to be as  
 6 clear as I can what the consequences are.

7 First, the documents. So, that's where we stand on  
 8 the documents.

9 MR. MILLER: Your Honor --

10 THE COURT: You understand --

11 MR. MILLER: Yes, Your Honor.

12 THE COURT: -- that you're going to have to  
 13 demonstrate to me that there were documents produced afterwards  
 14 or you have a basis for believing that there are other  
 15 documents that she has not produced.

16 MR. MILLER: If I could clarify, Your Honor, she  
 17 has apparently -- and I haven't seen them. But it's my  
 18 understanding that she filed documents with the Court,  
 19 including her tax returns and perhaps some journals that were  
 20 at issue in the case that we don't yet have.

21 THE COURT: Have you provided them for defendant?

22 MS. STEVENSON: Yes, sir. And I have proof that I  
 23 sent them to him. I sent them electronically.

24 THE COURT: No. There were a large number of  
 25 documents.

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1 to dismiss the case on documents that show that the defendant  
 2 had never ascertained their claim that I was an independent  
 3 contractor, doesn't that go against what the overtime wage law  
 4 stands for?

5 THE COURT: You're talking about something entirely  
 6 different.

7 MS. STEVENSON: I am? I think we're talking about  
 8 the same thing. Because in my mind --

9 THE COURT: Ms. Stevenson --

10 MS. STEVENSON: -- to me --

11 THE COURT: Ms. Stevenson, let me be clear. I'm  
 12 going to go step by step.

13 The first step is the documents, whether or not you  
 14 have produced all of the documents. That's all we're talking  
 15 about right now. I'm going to go to the next step.

16 MS. STEVENSON: Okay. Well, why -- may I --

17 THE COURT: Are you going to listen to me or not?

18 MS. STEVENSON: Well, I --

19 THE COURT: Are you going to listen to me or not?  
 20 No. Please step back. Are you going to listen to me or not?

21 MS. STEVENSON: I'm listening.

22 THE COURT: Okay. I've just told you the first  
 23 step. You will have adequate opportunity to address me on  
 24 other matters. But this case has been transformed into a  
 25 mess. And it has been transformed into a mess because of

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1 MS. STEVENSON: Yes. When they sent me the E-mail  
 2 after they received this document, they never told me -- and I  
 3 have the E-mail here with it. They never told me after they  
 4 received this document that there was some missing. I didn't  
 5 know about their alleged missing documents until they wanted to  
 6 file a supplemental brief. And I have that E-mail here with me  
 7 from them.

8 THE COURT: The docket reports as follows with  
 9 respect to your motion for summary judgment: "Motion for  
 10 summary judgment by Janice Stevenson. Exhibits voluminous and  
 11 unscanned," which means that they weren't sent by electronic --

12 MS. STEVENSON: No, no, no, no, no. I brought  
 13 those in here, because I don't have access to what attorneys  
 14 do. But they can --

15 THE COURT: Did you provide them to --

16 MS. STEVENSON: Yes.

17 THE COURT: -- the defendants? You provided those  
 18 documents to the defendants?

19 MS. STEVENSON: Yes. I E-mailed him those  
 20 documents.

21 THE COURT: You E-mailed the documents to the  
 22 defendants?

23 MS. STEVENSON: I E-mailed all of them. Everything  
 24 I have sent to him has been by E-mail.

25 MR. MILLER: Your Honor, she did send me a series

3 (Pages 6 to 9)

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1 of six E-mails attaching essentially the same thing over and  
2 over again. As I understand it, what she has sent to me is  
3 some small fraction of what she filed with her papers.

4 THE COURT: When you say as you understand, what's  
5 the basis for that understanding?

6 MR. MILLER: When she filed those papers, I had a  
7 discussion with Ms. Rynne about what was filed because it was  
8 clear that what she served on me was different from what she  
9 had served on the Court. And we had concerns about some of the  
10 specific documents that we thought she may have filed because  
11 she was, in fact, sanctioned by the Bankruptcy Court from  
12 filing those specific documents because they are confidential.  
13 And as I understand it -- and, again, I have not seen what she,  
14 in fact, filed with the Court and it's not available online.  
15 But as I understand it, the documents she produced to the Court  
16 or filed with the Court include some journals that she  
17 submitted to the U.S. Department of Labor and various other  
18 materials. What she has produced to me are her tax returns and  
19 only in part and excluding the documents that are most relevant  
20 to her claim in this case, including Forms W-2, Forms 1099, and  
21 things like that. We don't have the journals and we don't have  
22 the various other documents she was ordered to produce.

23 THE COURT: All right. So you go look at the court  
24 file. That's how you're going to get access and make the  
25 determination of whether or not she actually served on you all

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1 of the materials that she said she did. She says that she  
2 served on you by E-mail all the documents that were produced in  
3 connection with the motion for summary judgment. I take that  
4 as a representation. If it's inaccurate, it will be grounds  
5 for contempt. Do you understand?

6 MS. STEVENSON: Yes. I have the E-mail.

7 THE COURT: No, no. What's going to happen is  
8 counsel is going to look at what's on file in this Court.

9 MS. STEVENSON: Yes.

10 THE COURT: And then he's going to show, if he can,  
11 that there is some difference. And you'll have an opportunity  
12 to respond. But you don't get to say things in this Court  
13 without consequences. And you have represented to me that  
14 everything that is on file in connection with the Motion for  
15 Summary Judgment was served on the other side.

16 MS. STEVENSON: That's right, electronically.

17 THE COURT: Okay. I heard what you had to say.

18 MS. STEVENSON: That's right.

19 THE COURT: And I've told you what the consequences  
20 will be if you have been inaccurate.

21 MS. STEVENSON: Well, I know what you sent to him I  
22 left here. That's all I can say.

23 THE COURT: Okay. Well, you've said it. Now that  
24 deals with the documents.

25 Now the question of her deposition?

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1 MR. MILLER: Yes, Your Honor. Magistrate Judge  
2 Alexander specifically ordered Ms. Stevenson to appear for  
3 deposition having found that she unjustifiably failed and  
4 refused to participate in the first two sessions of her  
5 deposition. She ordered it for date certain for December 20th  
6 after accommodating Ms. Stevenson's schedule and allowing her  
7 to reschedule it for a date that she had not been available on.  
8 Ms. Stevenson failed to appear without justification, notice,  
9 or excuse. And in fact, it appears that she was at this  
10 courtroom filing documents on the day that she should have been  
11 in our offices a few hundreds yards from here sitting for her  
12 deposition. And as a result, my client, which is a charitable  
13 educational organization, has been forced to expend thousands  
14 more dollars on top of the tens of thousands of dollars that  
15 it's already extended in this case for no justifiable reason.  
16 And we believe that that alone stands for grounds for a  
17 significant sanction against Ms. Stevenson.

18 THE COURT: Okay. Why didn't you show up for the  
19 deposition?

20 MS. STEVENSON: Your Honor, I came across documents  
21 and I produced documents that, according to the law, if you can  
22 produce evidence with affidavits that show there is no issues  
23 of fact that can be -- that could no longer -- that the  
24 defendant can no longer claim and I came to the Court and I  
25 submitted those documents because there is no issue now if they

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1 claim I was independent contractor -- and the issue is was I  
2 depending on this person as an employer -- and I show through  
3 my documents and my affidavit that I truly was dependent, I had  
4 no other income -- outside of my employment with this --

5 THE COURT: Let me cut you short, because you've  
6 got to answer my question: Why didn't you show up for the  
7 deposition? You were ordered to show up for the deposition by  
8 Judge Alexander. Why didn't you show up?

9 MS. STEVENSON: I did not show up, Your Honor,  
10 because I had also informed him after the -- after he notified  
11 me that I could no longer financially incur those costs of  
12 going back and forth to the deposition. If he could move it  
13 closer --

14 THE COURT: What costs of going back and forth?

15 MS. STEVENSON: The transportation costs.

16 THE COURT: But you were here in court filing on  
17 that day.

18 MS. STEVENSON: Yes, sir.

19 THE COURT: Now, the transportation costs are the  
20 same to get to this court as to get to the offices just down  
21 the street.

22 MS. STEVENSON: Well, Your Honor, I made the cost  
23 to come here to file it hopefully that it would grant -- that  
24 the documents would show that there can be no more -- that  
25 there are no more issues.

4 (Pages 10 to 13)

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1 THE COURT: You're in violation of a court order.  
 2 MS. STEVENSON: Well, no, sir. I really --  
 3 THE COURT: Yes, you are in violation of a court  
 4 order. Magistrate Judge Alexander was clear. You have an  
 5 obligation to appear before a deposition. You don't get to  
 6 make your own choices about whether or not you appear or don't  
 7 appear. You were ordered to appear and you didn't.  
 8 Now, the question for me is what the sanction  
 9 should be. I'm going to give you one more chance -- one more  
 10 chance. I'm going to fix the date for deposition and you're  
 11 going to appear.  
 12 So, what date do you want? What dates do you want?  
 13 MR. MILLER: Your Honor, we would like some time to  
 14 review the court file and make sure we have documents  
 15 available.  
 16 THE COURT: What dates do you want?  
 17 MR. MILLER: We're probably looking at a date in  
 18 late February if that's acceptable to the Court.  
 19 THE COURT: Okay. We'll fix a date in late  
 20 February. Ms. Stevenson, when are you available?  
 21 MS. STEVENSON: I don't have a calendar in front of  
 22 me, Your Honor.  
 23 THE COURT: Well, you're going to have to tell me  
 24 right now.  
 25 MS. STEVENSON: Well, I don't know.

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1 THE COURT: Well, I'm going to tell you when you're  
 2 going to appear for the deposition. What other obligations do  
 3 you have? Are you working?  
 4 MS. STEVENSON: No, but I'm looking for a job.  
 5 THE COURT: Okay. Well, then this date will  
 6 interfere with your job search. Because you're going to have  
 7 to appear on this date.  
 8 MS. STEVENSON: In this Court?  
 9 THE COURT: No, in the deposition at their office  
 10 just as Magistrate Judge Alexander told you to do. And you  
 11 should understand that it was within my power and it is within  
 12 my power to dismiss this case for your willful failure to  
 13 appear at the deposition, but I'm giving you one more chance.  
 14 MR. MILLER: Can I request February 22nd, Your  
 15 Honor, for the deposition?  
 16 THE COURT: Thursday, February 22nd. At what time?  
 17 MR. MILLER: 10 A.M., please.  
 18 THE COURT: You should take that down,  
 19 Ms. Stevenson. Thursday, February 22nd. I'm sorry. You don't  
 20 seem to be writing.  
 21 MS. STEVENSON: I don't have anything to write  
 22 with.  
 23 THE COURT: Okay. Well, Ms. Rynne will pass you a  
 24 pen so that you can write this down.  
 25 MS. STEVENSON: Well, suppose I get back and I have

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1 something on that date?  
 2 THE COURT: Well, you're going to have to make some  
 3 kind of motion.  
 4 MS. STEVENSON: But was it in another court?  
 5 THE COURT: You're going to have to make some kind  
 6 of motion.  
 7 MS. STEVENSON: Motion?  
 8 THE COURT: Motion. You know about those. You've  
 9 filed them. You filed a number of them. You're going to have  
 10 to do what you didn't do with respect to Magistrate Judge  
 11 Alexander's order. Ask for some sort of leave. And unless you  
 12 get that leave from this Court, the consequence will be the  
 13 dismissal of this case. February 22nd. At what time?  
 14 MR. MILLER: At 10 A.M., please, Your Honor.  
 15 THE COURT: 10 A.M. at the offices --  
 16 MR. MILLER: At the offices of Seyfarth, Shaw,  
 17 which is in the World Trade Center, a few hundred yards from  
 18 here.  
 19 THE COURT: That's where you're going to have to  
 20 appear. And until I issue an order that says that you don't  
 21 appear, you have to appear. Do you understand?  
 22 MS. STEVENSON: Yeah.  
 23 THE COURT: Now, what else?  
 24 MS. STEVENSON: Might I ask a question?  
 25 THE COURT: You'll have an opportunity. I'm asking

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1 a question of counsel first.  
 2 MR. MILLER: If that's all Your Honor wishes to  
 3 hear on our motion for order to show cause, the only remaining  
 4 motions before the court, I believe, include plaintiff's motion  
 5 for summary judgment, the two documents she filed on December  
 6 20th. And to the extent that Your Honor hasn't already  
 7 addressed it, there are objections to the Magistrate Judge's  
 8 order.  
 9 THE COURT: Now, assuming that you have the  
 10 deposition and you have those documents, what is your next step  
 11 in this case?  
 12 MR. MILLER: We intend to move for summary  
 13 judgment, Your Honor.  
 14 THE COURT: All right. When would you move for  
 15 summary judgment, Your Honor, in relation to the deposition?  
 16 MR. MILLER: We would ask for three weeks after her  
 17 deposition is completed.  
 18 THE COURT: Okay. Well, it can be completed in one  
 19 day.  
 20 MR. MILLER: We believe it can if she cooperates,  
 21 Your Honor.  
 22 THE COURT: Okay. So, I will permit the filing of  
 23 motions for summary judgment on March 16. And I will deny the  
 24 motion for summary judgment of the plaintiff without prejudice  
 25 in order to permit the full development of the record in this

5 (Pages 14 to 17)

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1 case.

2 Now, you had some something further that you wanted  
3 to say?

4 MS. STEVENSON: Yes. Why would you deny my motion  
5 if it's relevant to the issues now?

6 THE COURT: Because it's not timely and because you  
7 have interfered with discovery. I just set a date for summary  
8 judgment.

9 MS. STEVENSON: But if I gave evidence that can  
10 show there is no deposition or anything else he can produce  
11 that can overcome my evidence, why would you deny it?

12 THE COURT: Well, we'll find out. You'll show up  
13 at the deposition.

14 MS. STEVENSON: Okay. And what about --

15 THE COURT: Just a moment.

16 MS. STEVENSON: (Heavy sighing).

17 THE COURT: And they'll get an opportunity --  
18 excuse me. Have you completed your sighing?

19 MS. STEVENSON: My sighing?

20 THE COURT: Sighing.

21 MS. STEVENSON: Well --

22 THE COURT: Have you?

23 MS. STEVENSON: -- I still have -- I still have a  
24 comment. But Your Honor, I really feel like there is nothing  
25 else that I can produce for them.

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1 THE COURT: That's what every lawyer and every  
2 party believes about their motions for summary judgment. But  
3 we have an orderly process. We have a process in which the  
4 parties don't just tell us when they feel like filing their  
5 motion for summary judgment. They don't just tell us that  
6 they'd like to show up or don't want to show up for a  
7 deposition. Both sides are to be afforded an opportunity to  
8 develop the case fully and I am affording both sides that  
9 opportunity.

10 And, so, I said that I am dismissing your motion  
11 for summary judgment or denying it without prejudice. That is,  
12 it may be renewed on March 16th after the conclusion of all of  
13 the relevant discovery, but not until.

14 MS. STEVENSON: So I have to refile again?

15 THE COURT: If you want to leave it as it stands,  
16 you can have it left as it stands. You can refile it as it  
17 stands. But it's not going to be ripe for consideration until  
18 March 16th to afford the defendant the opportunity to conduct  
19 such discovery as they were permitted by order of Judge  
20 Alexander. Understand?

21 MS. STEVENSON: Well, no, because I feel like this  
22 is lopsided. I have asked for documents, an employer -- or he  
23 should have in regards to his claim that I was an independent  
24 contractor. I can't get that from them.

25 THE COURT: And that's your motion to compel which

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1 was dealt with by Magistrate Judge Alexander.

2 MS. STEVENSON: Okay. What is -- she didn't even  
3 address it, did she? I mean, there was nothing. I still can't  
4 get a record from --

5 THE COURT: Magistrate Judge Alexander entered an  
6 order on November 7th granting the motion to compel documents  
7 and for sanctions by Neighborhood House Charter School. No  
8 action was taken by the court on the motion to compel by  
9 Ms. Stevenson in that it's not a discovery motion or one that  
10 was dispositive in nature. And consequently, she denied the  
11 motion for sanctions by Janice Stevenson. She denied the  
12 motion to compel for terminating sanctions in the alternative  
13 by Neighborhood Schools. In short, she dealt with it.

14 MS. STEVENSON: Well, again, this seems to be  
15 lopsided. It seems to be --

16 THE COURT: Well, you say it's lopsided and  
17 certainly you're entitled to whatever view you have.

18 MS. STEVENSON: Yes.

19 THE COURT: But the short of it is that there has  
20 been a request for discovery and an order issued you have not  
21 complied with. Now I'm giving you another chance to comply  
22 with it. And once that has been completed, your motion for  
23 summary judgment -- which you say is uncontroverted -- will be  
24 ripe for consideration.

25 So, that's how we're going to leave it.

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1 MS. STEVENSON: Okay. But what about documents I  
2 need?

3 THE COURT: Why do you need the documents? You  
4 told me a moment ago that there's no need for documents, that  
5 it's uncontroverted?

6 MS. STEVENSON: Well, there are still documents  
7 they are statutorily required to have. And I would like to see  
8 copies of those.

9 THE COURT: Have you made a motion to compel?

10 MS. STEVENSON: Yes, I have.

11 THE COURT: And what happened to that motion?

12 MS. STEVENSON: They said they won't give them to  
13 me.

14 THE COURT: What happened to the motion to compel?

15 MS. STEVENSON: You mean the one that you just  
16 read?

17 THE COURT: Yes.

18 MS. STEVENSON: Okay. Well, they're still -- I  
19 feel like this is unfair. I feel like this is a lopsided case.

20 THE COURT: Well, I understand what you have said.  
21 But the short of it is that you have so managed to interfere  
22 with the discovery process in this case that it's necessary now  
23 for two Judges of this Court to make extraordinary rulings,  
24 Judge Alexander and me. We're making these orders in order to  
25 ensure that the parties have an opportunity to address the

6 (Pages 18 to 21)

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1 question of summary judgment in an orderly fashion. You say  
2 you're entitled to some additional documents.

3 MS. STEVENSON: Yes.

4 THE COURT: But you have not filed a motion to  
5 compel that would permit me to order it. So, I have nothing  
6 before me with respect to that.

7 We now have a schedule that you will comply with.  
8 And if you fail to comply with it, the case will be dismissed.

9 MS. STEVENSON: Oh, and another thing. Have you  
10 addressed my motion to withdraw? I had a request.

11 THE COURT: Right.

12 MS. STEVENSON: I wanted to put it in state court.

13 THE COURT: Whatever you want to do with the case  
14 is up to you.

15 MS. STEVENSON: Okay.

16 THE COURT: If you want to file it in some other  
17 court --

18 MS. STEVENSON: Make a motion.

19 THE COURT: -- I'm not going to interfere with  
20 that.

21 MS. STEVENSON: Okay.

22 THE COURT: But it's withdrawn in this Court.

23 MS. STEVENSON: Okay.

24 THE COURT: And it can't be revived in this Court.

25 MS. STEVENSON: No.

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1 THE COURT: Okay. So first, we deal with motion  
2 number 59, Motion to Withdraw the Motion for Order to Show  
3 Cause. That motion to withdraw is allowed.

4 Second, we deal with the Motion for Summary  
5 Judgment filed by the plaintiff when she was expected to be at  
6 the deposition. That's number 57. That is denied without  
7 prejudice. The time for filing Motions for Summary Judgment in  
8 this case would be March 16th.

9 Third, we deal with the Motion to Show Cause, which  
10 is number 56, which was indicated has been withdrawn.

11 We deal then with motion number 54, the Motion to  
12 File a Supplemental brief in Support of the Motion to Show  
13 Cause. That motion is allowed.

14 Next, we deal with the Motion for an Order to Show  
15 Cause by the Neighborhood Charter School. I dealt with that  
16 motion by establishing that the plaintiff has asserted under  
17 pains of dismissal that there are no further documents that are  
18 responsive to Judge Alexander's order that have not been  
19 provided to counsel in this case -- defense counsel in this  
20 case; and second, that Ms. Stevenson will appear for a  
21 deposition on February 22nd at 10 A.M. in the Seyfarth offices.

22 I don't believe there's anything else that needs to  
23 be dealt with, is there?

24 MR. MILLER: Your Honor, if we could just clarify.

25 You stated that the summary judgment motions are to be filed by

Page 24

1 March 16th. Should we set a date for responses to those  
2 motions?

3 THE COURT: No, the ordinary.

4 MR. MILLER: Ten days?

5 THE COURT: No, it's 14 days.

6 MR. MILLER: Fourteen days after filing. Thank  
7 you, Your Honor.

8 THE COURT: Okay. All right. Anything else?

9 (No response)

10 THE COURT: I think I have been as clear as I can  
11 be about this, Ms. Stevenson. I hope that this case can be  
12 resolved on the merits. I hope that I don't have to dismiss it  
13 because of misconduct. But I've made it as clear as I can that  
14 you've got one more chance to comply with Magistrate Judge  
15 Alexander's orders. If you don't, then the case will be  
16 dismissed for procedural infirmities and the failure on your  
17 part properly to conduct yourself in litigation with this  
18 Court.

19 So, if there's nothing further, we'll be in recess.

20 RECESSED AT 10:45 A.M.

21

22

23

24

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## CERTIFICATION

1  
2  
3  
4 I certify that the foregoing is a correct  
5 transcript of the record of proceedings in the above-entitled  
6 matter to the best of my skill and ability.

7  
8  
9 Pamela R. Owens

Date

10 Official Court Reporter

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